



REPORTABLE CONDUCT

Continuum Consulting Australia PTY. LTD.

DEFINING REPORTABLE CONDUCT

The Children's Guardian Act 2019 defines reportable conduct as a sustained finding of:

- A sexual offence
- Sexual misconduct
- Ill-treatment of a child
- Neglect of a child
- Assault against a child
- An offence under section 43B (failure to protect) or section 316A (failure to report) of the *Crimes Act 1900*
- Behaviour that causes significant emotional or psychological harm to a child.



EXEMPTIONS OF REPORTABLE CONDUCT

Not all incidents of reportable conduct are directed to the Ombudsman or Office of the Children's guardian, however alternate strategies will need to be developed to provide safe care. Exemptions include:

- Conduct that is reasonable for the purposes of management or care of children - due to age, maturity, health etc. Physical abuse which causes harm is considered unacceptable under any circumstances.
- Use of physical force that, in all circumstances is trivial or negligible, but only if the matter is to be investigated.
- Conduct of a class or kind exempted from being reportable conduct by Ombudsman Act under section 25CA.

Reportable Allegation

Suspicion of reportable conduct; investigation to take place.

Reportable Conduct

An investigation has found a sustained finding of maltreatment.

Reportable Conviction

A recorded offence resulting from reportable conduct.

FACTORS OF REPORTABLE CONDUCT

What is the process?

A reportable conduct process is lengthy and can differ between circumstances. You and the child can be required to answer questions in an interview format. An assessment will follow and a report will be written outlining whether an allegation is substantiated or not substantiated.

Decisions will be made on the balance of probability or beyond a reasonable doubt.

Who is involved?

- NSW Ombudsman
- Office of the Children's Guardian
- Carer's register
- Funded service providers
- Employees
- Carers
- Children
- Department of Communities and Justice/Joint Child Protection Unit

Legislation	<i>Children and Young Persons (care and protection) Act 1998, Crimes Act 1900 (NSW), Ombudsman Act 1974</i>
Regulations	Out-of-home-care standards provided by Office of the Children's Guardian.
Policy	Agency policies are impacted by regulations of Office of the Children's Guardian. These standards need to be met for agency accreditation. Policy and procedure is regularly monitored and reviewed to ensure children are kept safe.
Procedure	
Code of Conduct	Code of Conduct for Authorised Carers (the Code of Conduct)

What if I am Subject to a Reportable Conduct Investigation?

- A report will be made and forwarded to appropriate bodies.
- An investigation will take place and a risk assessment will be completed separately.
- You will be informed of the allegation via a document - the specific allegation is not clear, however you may be notified of the type of allegation.
- After further investigation a list of allegations will be provided to you in legal terms, you will be required to:
 - Respond in writing
 - Engage in an interview
 - Or not respond at all.
- A finding will be made on the balance of evidence before the investigator.
- It is important you have a support structure in this high anxiety process.

The Investigation

When an allegation is made the agency should:

- Clarify the allegation - who, what, where, when & how
- Assess whether the child is at risk of significant harm
- Consider whether there is a criminal offence
- Notify the Ombudsman, police or DCJ
- Conduct an investigation that takes action and reports findings

The CEO or delegated officer should keep parties updated. The child and their birth parents should also be updated.

Involved parties should be informed by their agency of: the status of investigation, findings of investigation, particularly those which may impact WWCC, and actions which will be taken in response to the investigation.

